The Union of India & Anr ...Respondents

Mr Nigel Costa Frias, *Advocate for the Petitioners*
Mr P Dangui, *Government Advocate for Respondent No.2*

WITH

WRIT PETITION NO. 783 OF 2017

Fakeersa Naikodi & Ors ...Petitioner
Versus
Union of India & Anr ...Respondents

Mr SS Kantak, *Senior Advocate with Mr. J Supekar, Advocate for the petitioners.*
Mr R Shivolkar, *Additional Government Advocate for Respondent No.2*

WITH

WRIT PETITION NO. 787 OF 2017

Pilerne Citizens Forum ...Petitioner
Versus
The Union of India & Anr ...Respondents

Mr Ryan Menezes *& Ms C Rebeiro, Advocates for the petitioner*
Mr A Prabhudesai, *Additional Government Advocate for Respondent No.2*

CORAM: G.S. PATEL &
NUTAN D. SARDESSAI, JJ
DATED: 4th October 2017

PC:-

1. Arguments completed. Reserved for orders.

2. Previous order to continue.

3. List on 11th October 2017 for pronouncement of judgment.

NUTAN D. SARDESSAI J. G. S. PATEL J.

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 22 OF 2017

The Goa Foundation ...Petitioner
Versus
Ministry of Environment, Forest & Climate Change & Anr ...Respondents

Ms Norma Alvares, *Advocate for the petitioner.*
Mr MB Da Costa, *Senior Advocate with Ms K Betquecar, Advocate for the High Court Bar Association.*
Mr Dattaprasad Lawande, *Advocate General with Mr P Dangui, Government Advocate for Respondent No 2.*
Ms S Halankar, *Advocate for the intervenor.*

WITH

MISC. CIVIL APPLICATION NO.740 OF 2017

IN

SUO MOTU WRIT PETITION NO.1 OF 2017

Sergio Dias ...Applicant
Versus
Union of India & Anr ...Respondent

Mr V Rodrigues, *Advocate for the Applicant.*

WITH

PUBLIC INTEREST LITIGATION WP NO. 21 OF 2017

Kashinath Jairam Shetye and Ors ...Petitioners
Versus
Union of India & Ors ...Respondents

Kashinath J Shetye, *Petitioner No 1 in person.*
Mr Dattaprasad Lawande, *Advocate General with Ms P Bhandari, Additional Government Advocate for Respondent No 2.*

WITH

PUBLIC INTEREST LITIGATION WP NO. 23 OF 2017

Rohan Shirodkar ...Petitioner
Versus
Union of India & Anr ...Respondents

Mr Yogesh Nadkarni, *Ms D Shirgam & Ms A Kale, Advocates for the petitioner*
Mr D Shirodkar, *Additional Government Advocate for Respondent No.2*

WITH

SUO MOTU WRIT PETITION NO.1 OF 2017

High Court of Goa on its own motion ...Petitioner
Versus
The Union of India & Anr ...Respondents

Mr SD Lotlikar, *Senior Advocate — Amicus Curiae*
Ms P Kalangutkar, *Additional Government Advocate for Respondent No.2*

WITH

WRIT PETITION NO.778 OF 2017

Baina Ramponkar and Fishing Canoe Owners Society & Anr ...Petitioner
Versus

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 22 OF 2017

The Goa Foundation ...Petitioner
Versus
Ministry of Environment, Forest & Climate Change & Anr ...Respondents

Ms Norma Alvares, *for the petitioner.*
Mr SM Walawaikar *in person.*
Mr Mahesh Amonkar, *Central Govt. Standing Counsel for the Respondent No 1.*
Mr Dattaprasad Lawande, Advocate General *with P Dangui, Government Advocate for Respondent No 2.*

WITH

PUBLIC INTEREST LITIGATION WP NO. 21 OF 2017

Kashinath Jairam Shetye and Ors ...Petitioners
Versus
Union of India & Ors ...Respondents

Kashinath J Shetye, *Petitioner No 1 in person.*
Mr Mahesh Amonkar, *Central Govt. Standing Counsel for Respondent No 1.*

WITH

PUBLIC INTEREST LITIGATION WP NO. 23 OF 2017

Rohan Shirodkar ...Petitioner
Versus
Union of India & Anr ...Respondents

PIL Govt never opposed in 2013

Mr Yogesh Nadkarni, *with Ms. D Shirgam for the petitioner*
Mr Mahesh Amonkar, *Central Govt. Standing Counsel for Respondent No. 1*
Mr Dattaprasad Lawande, Advocate General *with Mr D Shirodkar, Additional Government Advocate for Respondent No.2*

WITH

SUO MOTU WRIT PETITION NO.1 OF 2017

High Court of Goa on its own motion ...Petitioner
Versus
The Union of India & Anr ...Respondents

Mr SD Lotlikar, *Senior Advocate with Mr C Padgaonkar — Amicus Curiae*
Mr Mahesh Amonkar, *Central Govt. Standing Counsel for Respondent No. 1*
Mr Dattaprasad Lawande, Advocate General *with P Dangui, Government Advocate for Respondent No.2*

WITH

WRIT PETITION NO.778 OF 2017

Baina Ramponkar and Fishing Canoe Owners Society & Anr ...Petitioner
Versus
The Union of India & Anr ...Respondents

Mr Nigel Costa Frias, *Advocate for the Petitioners*
Mr Mahesh Amonkar, *Central Govt. Standing Counsel for Respondent No. 1*
Mr Dattaprasad Lawande, Advocate General *with P Dangui, Government Advocate for Respondent No.2*

WITH

WRIT PETITION NO. 783 OF 2017

Fakeersa Naikodi & Ors ...Petitioner

Versus

Union of India & Anr ...Respondents

Mr SS Kantak, *Senior Advocate with Mr. J Supekar, Advocate for the petitioners.*

Mr Mahesh Amonkar, *Central Govt. Standing Counsel for Respondent No. 1*

Mr Dattaprasad Lawande, Advocate General, *with R Shivolkar, Addl Government Advocate for Respondent No.2*

WITH

WRIT PETITION NO. 787 OF 2017

Pilerne Citizens Forum ...Petitioner

Versus

The Union of India & Anr ...Respondents

Mr Ryan Menezes, *with C Ribeiro, for the petitioner*

Mr Mahesh Amonkar, *Central Govt. Standing Counsel for Respondent No. 1*

Mr Dattaprasad Lawande, Advocate General *with Amogh Prabhudesai, Additional Government Advocate for Respondent No.2*

CORAM: G.S. Patel &
Nutan D. Sardessai, JJ

DATED: 25th September 2017

PC:-

1. Having briefly heard Mr Lawande, learned AG, we list the matter first on supplementary board on 3rd October 2017.

2. As regards paragraph 5 of Order of 12th September 2017, Mr Lawande correctly points out that there is an error. The request of comments ought to have been sought from the Chairman of the NGT rather than the Presiding Member. As it happens, until the time of this hearing, no response has been received. For the present, we hold that direction in abeyance.

3. Previous order to continue.

NUTAN D. SARDESSAI J. G. S. PATEL J.

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 22 OF 2017

The Goa Foundation ...Petitioner
Versus
Ministry of Environment, Forest & Climate Change & Anr ...Respondents

Ms Norma Alvares, *Advocate, for the petitioner.*
Mr MB Da Costa, *Senior Advocate with Ms K Betquecar, Advocate for the High Court Bar Association.*
Mr Mahesh Amonkar, *Central Govt. Standing Counsel for the Respondent No 1.*
Mr P Dangui, *Government Advocate for Respondent No 2.*

WITH

MISC. CIVIL APPLICATION NO.736 OF 2017

IN

PUBLIC INTEREST LITIGATION WP NO.22 OF 2017

Goa Paryavaran Savrakshan Sangharsh Samitee ...Applicant
Versus
The Goa Foundation ...Respondent

Mr SM Walwaikar, *Advocate for the Applicant.*
Ms Norma Alvares, *Advocate for the Respondent.*

WITH

PUBLIC INTEREST LITIGATION WP NO. 21 OF 2017

Kashinath Jairam Shetye and Ors ...Petitioners
Versus
Union of India & Ors ...Respondents

Kashinath J Shetye, *Petitioner No 1 in person.*
Mr Mahesh Amonkar, *Central Govt. Standing Counsel for Respondent No 1.*
Ms P Sawant, *Additional Government Advocate for Respondent No 2.*

WITH

PUBLIC INTEREST LITIGATION WP NO. 23 OF 2017

Rohan Shirodkar ...Petitioner
Versus
Union of India & Anr ...Respondents

Mr Yogesh Nadkarni *& Ms A Kale, Advocates for the petitioner*
Mr Mahesh Amonkar, *Central Govt. Standing Counsel for Respondent No. 1*
Mr D Shirodkar, *Additional Government Advocate for Respondent No.2*

WITH

SUO MOTU WRIT PETITION NO.1 OF 2017

High Court of Goa on its own motion ...Petitioner
Versus
The Union of India & Anr ...Respondents

Mr SD Lotlikar, *Senior Advocate with Mr C Padgaonkar — Amicus Curiae*
Mr Mahesh Amonkar, *Central Govt. Standing Counsel for Respondent No. 1*
Mr P Dangui, *Government Advocate for Respondent No.2*

WITH

WRIT PETITION NO.778 OF 2017

Baina Ramponkar and Fishing Canoe Owners
Society & Anr ...Petitioner
Versus
The Union of India & Anr ...Respondents

Mr Nigel Costa Frias, *Advocate for the Petitioners*
Mr Mahesh Amonkar, *Central Govt. Standing Counsel for Respondent No. 1*
Mr P Dangui, *Government Advocate for Respondent No.2*

WITH

WRIT PETITION NO. 783 OF 2017

Fakeersa Naikodi & Ors ...Petitioner
Versus
Union of India & Anr ...Respondents

Mr SS Kantak, *Senior Advocate with Mr. J Supekar, Advocate for the petitioners.*
Mr Mahesh Amonkar, *Central Govt. Standing Counsel for Respondent No. 1*
Mr P Dangui, *Government Advocate for Respondent No.2*

WITH

WRIT PETITION NO. 787 OF 2017

Pilerne Citizens Forum ...Petitioner
Versus
The Union of India & Anr ...Respondents

Mr Ryan Menezes *& Ms C Rebeiro, Advocates for the petitioner*
Mr Mahesh Amonkar, *Central Govt. Standing Counsel for Respondent No. 1*
Mr P Dangui, *Government Advocate for Respondent No.2*

CORAM: G.S. Patel &
Nutan D. Sardessai, JJ
DATED: 12th September 2017

PC:-

1. We are constrained to note that despite the clear directions in our order of 5th September 2017, we have as yet no affidavit in reply from the State Government. This is unfortunate, but we will yet afford the State Government one final opportunity, and we do so because of the importance of the issue and since so very many persons, organizations and parties have come before us in this group of matters, apart from this Bench itself being sufficiently persuaded to take up the issue as a *suo motu* PIL as well.

2. We allow, first, MCA No 736 of 2017 for intervention (not impleadment) in PILWP No 22 of 2017.

3. Mr Amonkar has tendered a copy of an affidavit dated 11th September 2017 affirmed by C.S. Thakur, Under Secretary in the Ministry of Environment, Forest and Climate Change ("MOEFCC"), of the Union of India. We have carefully considered this affidavit. *Prima facie,* we find that the statements made in paragraphs 6, 7 and 8 furnish a compelling argument for establishing in Panjim, Goa, a Circuit Bench of the NGT Western Zone Bench, one that currently sits at Pune. We are equally unable to fathom the rationale behind what follows in the affidavit, a proposal to shift all Goa-related matters even further away to the principal seat in New Delhi. The MOEFCC's affidavit reflects the proposals and justifications placed before it by the State Government. These are broadly two: first, inconvenient connectivity between Goa and Pune,

and, second, that the Goa Government does not have adequate legal infrastructure and representation in Pune.

4. While there is little can be done about connectivity, the second argument is singularly without appeal. In the four years or so since the NGT started in its Western Zone Bench in Pune, the State Government has surely had sufficient time to establish whatever infrastructure it requires in Pune, and to set up a legal team. But even if this argument is accepted, and taken with the one about connectivity, together these provide valid reasons for the first proposal from the State Government, viz., to establish a Circuit Bench in Panaji Goa. This is after all the seat of the government. There can be no question of inadequacy of legal representation for the State Government in Goa itself, and even less in Panjim. If this is to happen, the question of connectivity falls into complete irrelevance.

5. We propose to require the State Government to address itself to precisely this question, i.e., the setting up of a Circuit Bench in Goa. We are informally told that there is sufficient space in the old District Court building in Panaji as also in the temporary building being used at "Spaces" at Patto, Panaji. Both locations have registry facilities. The question would then be of the frequency of the Circuit Bench sittings. In this regard, we are constrained to note that about 40% of the filing before the NGT Western Zone is from this State. So much so, in fact, that the NGT Bench in Pune has a system of taking up Goa-related matters before it on Thursdays and Fridays. Obviously, this means that some plan would have to be properly drawn up for a continuous sitting for several days and perhaps a

week at a stretch at pre-defined and periodic intervals at a suitable location in Goa. The MOEFCC would have to examine the feasibility of making arrangements for the travel of the Bench Members for a Circuit sitting, but this is surely less cumbersome then requiring lawyers, litigants and government officers travel regularly either to Pune, or, worse yet, all the way to New Delhi. We propose to send the copy of this order to the NGT itself in Pune for the comments of the Presiding Member Shri Justice U.D. Salvi on this proposal.

6. In all this, we are mindful of the established law pronounced by the Supreme Court on the question of access to justice. This pronouncement is founded on a Constitutional mandate. We refer to the decision of the Supreme Court in *Anita Kushwaha v Pushap Sudan.*[1] The NGT has not been set up for the benefit or convenience of this or that government. It is established under a law to address environmental issues and before the NGT, as indeed before any Court, all litigants, whoever they be, are equal. Our Courts and Tribunals are personality-agnostic. The Government would, in preparing its affidavit, do well to bear this in mind and also to be mindful of the fact that it has an obligation to citizens and to environmental protection, a duty that cannot be denied.

7. What we suggest is in no way against the interest of the Government. If anything, to the contrary: the suggestion for a Circuit Bench in Goa, one we find reflected in the first part of the MOEFCC's affidavit, and universally endorsed by all the Petitioners before us, is also manifestly in the interest of the Government itself.

1 2016 (8) SCC 509.

For, it addresses all three issues: of connectivity, financial burden and adequate legal representation. Surely the Government cannot possibly be heard to dispute this position, and, indeed, we must in fairness note that on the previous occasion the learned Advocate General himself was fair and candid enough to say so himself on behalf of the State Government.

8. Clearly, therefore, the question is one of logistics for the MOEFCC itself has no other independent cause set out in its affidavit justifying a transfer of only Goa-related cases to New Delhi. In this context, we must also note that there is no such proposal in regard to cases filed in Pune from Gujarat. Conceivably the same questions of financial burden and connectivity might also arise there. What makes Goa different and perhaps special is not just the volume of the filings before the NGT, a matter that might be attributed to pronounced local fascination with and penchant for the process of law, but more importantly to the environmental sensitivity of this land. It is a land as intensely fertile as it is fragile. It needs special attention in law and in court, and it needs more often and closer home. For our part, we are quite unable to understand how the concept of access to justice and, in this case, environmental justice is subserved by moving the forum to a site that is the better part of day's travel away, one impossible to reach conveniently by road or rail and only accessible by expensive air travel.

9. We will therefore require the State Government to address the logistical issues and to provide sufficient answers. At the cost of repetition, we emphasize that this is neither combative nor

adversarial. Our only intention is to find a mutually acceptable solution that sub-serves the interests of all concerned; and by this we mean litigants, lawyers and the State Government equally.

10. The Affidavit of the State Government will be filed by 18th September 2017.

11. List the matter on 25th September 2017.

12. In the meantime an authenticated copy of this order will be communicated under a sealed cover by the registry to Shri Justice U.D. Salvi, for his comments, if any, on the logistics and feasibility.

13. We make it clear that although we have not formally issued Rule, we will dispose of these petitions finally on the next date.

14. List the entire group on the supplementary board on 25th September 2017.

15. The previous ad interim order will continue.

16. The affirmed affidavit of MOEFCC will be filed in the registry in the course of the week. Copies are to be given to the Advocates for the Petitioners in all matters.

17. Copies of the State Government's affidavit will be served on Mr Amonkar, Advocate for the MOEFCC, and on the Advocates for the Petitioners and the Petitioners appearing *pro se*.

18. All concerned to act on an authenticated copy of the order. Authenticated copy be issued urgently.

NUTAN D. SARDESSAI J. G. S. PATEL J.

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 22 OF 2017

The Goa Foundation ...Petitioner
Versus
Ministry of Environment, Forest & Climate Change. ...Respondent

---

Ms Norma Alvares, *Advocate, for the petitioner.*
Mr Mahesh Amonkar, *Central Govt Standing Counsel for the Respondent.*

WITH

PUBLIC INTEREST LITIGATION WP NO. 23 OF 2017

Rohan Shirodkar ...Petitioner
Versus
Union of India & Anr ...Respondents

Mr Yogesh Nadkarni, *Advocate, for the petitioner*
Mr Mahesh Amonkar, *Central Govt Standing Counsel for Respondent No. 1*
Mr Dattaprasad Lawande, Advocate General, *with Mr P Dangui, Government Advocate for Respondent No.2*

WITH

PUBLIC INTEREST LITIGATION WP NO. 21 OF 2017

Kashiram Jairam Shetye and Ors ...Petitioners
Versus

Union of India & Ors ...Respondents

Petitioner No.1 in person.

WITH
SUO MOTU WRIT PETITION NO.1 OF 2017

High Court at Goa at its own motion ...Petitioner
Versus
The Union of India & Anr ...Respondents

Mr SD Lotlikar, Senior Advocate – *Amicus Curiae*
Mr Mahesh Amonkar, *Central Govt Standing Counsel for Respondent No. 1*
Mr Dattaprasad Lawande, *Advocate General, with Mr P Dangui, Government Advocate for Respondent No.2*

WITH
WRIT PETITION NO.778 OF 2017

Baina Ramponkar and Fishing Canoe Owners Society & Anr ..... Petitioners
Versus
The Union of India & Anr .... Respondents

Mr Nigel Costa Frias, *Advocate for the Petitioners*

WITH
WRIT PETITION NO. 783 OF 2017

Fakeersa Naikodi & Ors ...Petitioners
Versus
Union of India & Anr ...Respondents

Mr SS Kantak, Senior Advocate *with Mr. J Supekar, Advocate, for the petitioner*
Mr Mahesh Amonkar, *Central Govt Standing Counsel for Respondent No. 1*
Mr Dattaprasad Lawande, Advocate General, *with Mr P Dangui, Government Advocate for Respondent No.2*

WITH
WRIT PETITION NO. 787 OF 2017

Pilerne Citizens Forum through its Secretary ...Petitioner
Versus
The Union of India & Anr ...Respondents

Mr Ryan Menezes, *Advocates for the petitioner*
Mr Mahesh Amonkar, *Central Govt Standing Counsel for Respondent No. 1*
Mr Dattaprasad Lawande, Advocate General, with Mr P Dangui, Government Advocate for Respondent No.2

CORAM: **G.S. PATEL &**
NUTAN D. SARDESSAI, JJ
DATED: **5th September 2017**

PC:-

1. At the request of the State Government and the MOEF stand over to Friday 8th September 2017 on the supplementary Board. The following group of matters will be listed first and are to be called together: PIL WP 22/2017; PIL WP 23/2017; PIL WP 21/2017; SMWP 1/2017; WP 778/2017; WP 783/2017 & WP 787/2017.

2. The Bar Association of this Court seeks to be impleaded or to intervene. They will file their intervention application in the course

of the week. It is to be filed in PIL WP No.22/2017, which we will treat as the lead petition. Affidavits from the State Government and the MOEF will also be filed in that petition by Friday 8th September 2017, with copies to the Advocates for the Petitioners in the entire group.

3. In the meantime, the previous ad interim order will continue.

NUTAN D. SARDESSAI J. G. S. PATEL J.

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

STAMP NUMBER MAIN NO.2744 OF 2017

Baina Ramponkar and Fishing Canoe Owners Society and anr. ...Petitioners

Versus

The Union of India through the Ministry of Environment, Forest & Climate Change. ...Respondent

---

Mr Nigel Costa Frias, *Advocate for the petitioners.*

STAMP NUMBER MAIN NO.2769 OF 2017

Goa Foundation. ...Petitioner

Versus

The Union of India through the Ministry of Environment, Forest & Climate Change. ...Respondent

Ms Norma Alvares, *Advocate for the petitioners.*

CORAM: G.S. PATEL
NUTAN D. SARDESSAI, JJ

DATED: 23rd August 2017

PC:-

1. Mentioned. Not on board. Taken on Board.

2. These writ petitions impugn the notification of the Ministry of Environment, Forest and Climate Change directing that cases before the National Green Tribunal, Western Region Bench in Pune be shifted to New Delhi.

3. We have already taken up the matter as a Suo Motu Writ Petition and tagged two other writ petitions with it. These writ petitions will also be tagged and placed along with other matters on 5th September 2017 on the supplementary Board.

NUTAN D. SARDESSAI J. G. S. PATEL J.

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
SUO MOTU WRIT PETITION NO. 1 OF 2017

High Court at Goa, on its own motion ...Petitioner
Versus
Union of India and others. ...Respondents

Mr S D Lotlikar, *Senior Advocate – Amicus Curiae.*
Mr Mahesh Amonkar, *Central Govt. Standing Counsel for the Union of India*
Mr Nadkarni, *Advocate, for Advocate Mr Shirodkar, Petitioner.*

CORAM: G.S. PATEL
NUTAN D. SARDESSAI, JJ
DATED: 21st August 2017

PC:-

1. We have seen of new reports that have appeared in the **'The Navhind Times'**, **'Herald'** and **'The Times of India'** today, all saying say that matters before the National Green Tribunal ("NGT"), Western Zone, coming up from Goa have been transferred by a Notification of the Ministry of Environment and Forests to the NGT's principal bench in New Delhi. The new reports indicate that for the past several years, these matters from Goa have been taken up by the NGT, Western Region Bench, in Pune. It is also noted that about 40% of the cases filed before that Bench come from this State. The news reports also say that matters from Maharashtra and Gujarat are not so transferred. It is only the matters from Goa that are supposedly shifted to New Delhi.

2. On of our particular concerns is in relation to quite significant costs that are likely to fall on those who approach the NGT. Very many litigants from this state have cases before the NGT in Pune, which they and their lawyers regularly attend. Costs is one aspect. Access to justice, a lodestar in judicial governance, is another, and we believe it is necessary to examine how the purpose of making available affordable access to justice is properly served by such an action. This is not a question of jurisdiction; the jurisdiction of the NGT remains untouched. It appears to us *prima facie* to be a purely administrative decision.

3. We therefore propose to take up this issue as a suo motu PIL. For the present, we only call for explanation from the MOEF justifying this shift to New Delhi exclusively for matters from Goa. We would expect a reply from the MOEF to be on file by 1st September 2017. In particular, we seek an explanation for the reasons for applying this decision only to cases from Goa. We are aware that some other states have circuit benches precisely for the reasons we have just indicated. We would therefore seek a clearer understanding why, instead of a circuit bench, the venue of hearings was decided to be moved even further away.

4. We will take up the matter first on the Supplementary Board on 5th September 2017.

5. At this stage, Mr Kashinath Shetye, a Petitioner in person mentions that he proposes to file or has filed a PIL on the very same issue. He has given a copy of the relevant MOEF Notification to Mr

Amonkar, Standing Counsel for the Union of India. Mr Nadkarni mentions another PIL filed by Advocate Mr Shirodkar. All these matters will be taken up together.

6. We are told by Mr Shetye and Mr Nadkarni that the MOEF issued a Notification of 10th August 2017, published in the Official Gazette on 11th August 2017.

7. In order to ensure that no hardship is caused, especially given the ensuing Ganpati days/holidays, we are inclined to direct that no file should be transferred from the Western Region Bench till we hear the matters on 5th September 2017. In order to preserve the parties in status quo and so as not to cause prejudice to either side, we would request the Western Region Bench not to take up any of the matters coming from Goa between now and 5th September 2017. In our view, given fact that the Western Region Zone Bench has been hearing matters from Goa for the last several years, and at least from August 2013, we do not believe that any prejudice will be caused to any respondent by this, and certainly the MOEF is in no way prejudiced if it is required to stay its hands for a brief period.

8. Finally, given that we have begun by taking this up as a Suo Motu, and tagged two other matters to it, we would request Mr SD Lotlikar, Senior Advocate of this Court, to serve as amicus in the *suo motu* PIL. Mr Shetye and Mr Nadkarni are requested to furnish Mr Lotlikar with copies of their respective petitions. This is also the reason we took up the issue *suo motu*, even before the other two PILs were mentioned. Those petitioners might themselves be litigants or

practitioners before the NGT in Pune. We desired a more neutral and distanced approach; hence the *suo motu* PIL and the request to Mr Lotlikar.

9. Copies of today's news papers, **'The Navhind Times'**, **'Herald'** and **'The Times of India'** are to be placed by the registry on the file. This matter will be registered as a *suo-motu* PIL by the registry. Mr. Shetye and Mr. Nadkarni will give the numbers of their respective PILs, which would be clubbed with this one. Mr Amonkar for the MOEF waives service of notice in the *suo motu* PIL.

10. An authenticated copy of this order will be issued urgently.

11. Mr Amonkar for the MOEF agrees to take the necessary instructions and file an affidavit as directed. For the present, no affidavits in rejoinder are to be filed.

12. List all the matters first on the Supplementary Board on 5th September 2017.

NUTAN D. SARDESSAI J. G. S. PATEL J.

NORMA

IN THE HIGH COURT OF BOMBAY AT GOA,

PIL WRIT PETITION NO. 22 OF 2017

The Goa Foundation)... Petitioner

v/s

Ministry of Environment, Forest and Climate Change)... Respondents

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Panaji, Goa , 23rd August, 2017

Advocate for Petitioner

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO. _____ OF 2017

SYNOPSIS AND CHRONOLOGY OF DATES AND EVENTS

This Writ Petition is being filed in public interest in view of a Notification promulgated by the Ministry of Environment, Forest and Climate Change, wherein the State of Goa has been excluded from the jurisdiction of the Pune bench of the NGT. Instead, under the Notification, the Principal Bench of the NGT at New Delhi will now have sole jurisdiction to hear cases from the State of Goa.

This impugned Notification is a clear and blatant violation of the fundamental rights of the members of the petitioner organization and of the people of Goa as a class. Keeping the accessibility in mind, the jurisdiction of the NGT had been decided based on geographical proximity and territoriality. Changing the jurisdiction to Delhi means that petitioners from Goa now have to incur huge costs and hurdles if they wish to file a grievance before the NGT. Thus, the impugned Notification is completely arbitrary, unjust and illegal.

The impugned notification has been promulgated with malafide and malicious intent to deny access to justice to the people of Goa who wish to seek redressal for increasing environmental grievances and violations in the State.

Hence this PIL.

Sr. No	Date	Particulars of events or documents if any	Annexure and Page
1.	18.10.2010	The National Green Tribunal is established under the National Green Tribunal Act, 2010 for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources. The structure of the NGT envisages a principal bench at New Delhi, and 4 other zonal Benches (North, South, East and West) for better accessibility of litigants.	
2.	17.08.2011	The Central Government specifies Pune as the ordinary place of sitting of the National Green Tribunal (Western Zone) Bench which shall exercise jurisdiction in the area/ territorial jurisdiction of Maharashtra, Gujarat, Goa, with Union Territories of Daman, Diu and Dadra and Nagar Haveli.	Ann. D, Pg. 24-25
	17.10. 2013	The Pune Bench of the NGT is established under the NGT Act, 2010.	
	Oct, 2013	The Hon'ble High Court transfers several pending environmental matters to the Pune bench of the NGT in lieu of the NGT bench functioning at Pune.	
3.	10.08.2017	The MoEF&CC without notice suddenly shifts the jurisdiction of the cases from the State of Goa from the Western Bench at Pune, to the Central Bench at New Delhi, vide a Notification in the official Gazette of India.	Ann. A, Pg.18-19

POINTS TO BE HEARD

1. The Notification promulgated by the MoEF&CC is a blatant attack on the citizens' right to protect their environment. Concerned citizens and NGOs have been denied their fundamental right of access to justice in relation to environment matters, guaranteed under Article 14 and 21 of the Constitution of India. Section 29 (2) of the NGT Act bars the jurisdiction of all civil Courts with regard to any claim for granting any relief or compensation or restitution of property damaged or environment damaged which may be adjudicated upon by the Tribunal. The High Court has directed citizens who approach it for the violation of environmental laws to approach the NGT instead, given that the NGT Act is specifically set up to deal with violations of the specific Acts listed in Schedule I. Hence, the citizens cannot approach the High Court for specific relief in such matters.

2. When the jurisdiction of the NGT has been divided into Zones (North, South, East, West and Central) based on geographical location and proximity for the purpose of accessibility as far as possible, it is wholly arbitrary, unreasonable, unjust and unjustifiable to shift the jurisdiction of the State of Goa, from the Pune to New Delhi (1873 km away).

ACTS/RULES TO BE REFERRED

The Constitution of India

The National Green Tribunal Act, 2010

AUTHORITIES TO BE CITED

Judgement in Anita Kushwaha Vs. Pushap Sudan [(2016) 8 SCC 509].

Panaji, 23rd August, 2017

Advocate for petitioner

IN THE HIGH COURT OF BOMBAY AT GOA

AT PANAJI GOA

PIL WRIT PETITION NO. of 2017

IN THE MATTER OF ARTICLE 14, 21, 226 AND 227 OF THE CONSTITUTION OF INDIA

AND

IN THE MATTER OF THE NATIONAL GREEN TRIBUNAL ACT, 2010

AND

IN THE MATTER OF THE NOTIFICATION DATED 10.08.2017 PROMULGATED BY THE MOEF&CC

1. The Goa Foundation,
   Through its Secretary, Dr. Claude Alvares,
   G-8, St. Britto's Appts,
   Feira Alta, Mapusa
   Goa 403 507
   Email id: goafoundation@gmail.com .....Petitioner

V/s

1. Ministry of Environment, Forest and Climate Change
   Through its Secretary,
   Indira Paryavaran Bhavan,
   Jorbagh Road,
   New Delhi - 110 003 .....Respondents

2. State of Goa through Chief Secretary, Secretariat, Porvorim, Goa

(The above are the registered addresses of the parties)

Amended
per Order dt
11/9/2017

To,

The Hon'ble Chief Justice and Companion Judges,

Bombay High Court at Panaji, Goa

THIS HUMBLE PETITION OF THE PETITIONER

MOST RESPECTFULLY SHOWS

Particulars of the Cause against which PIL is filed

1. This Petition is being filed in order to challenge Sr. No. 1 and 2 of a Notification promulgated by the Ministry of Environment Forest and Climate Change (Hereinafter, MoEF&CC), dated 10.08.2017, wherein the State of Goa has been excluded from the jurisdiction of the Pune bench (Western Zone) of the NGT. Instead, according to Sr. No. 1 and 2 impugned Notification, the Principal bench of the NGT at New Delhi will now have sole jurisdiction to hear cases from the State of Goa. A copy of the impugned Notification dated 10.08.2017 is herein enclosed as **Annexure A.** The impugned notification is a complete and blatant violation of the fundamental rights of the members of the petitioner organization and of the people of Goa as a class. It has been promulgated with malafide intent to deny access to justice to the people of Goa who wish to seek redressal for a spate of environmental grievances in the State.

Particulars of the Petitioner

2. The Petitioner is an environmental NGO based in Goa who has approached this Hon'ble Court, the Hon'ble Supreme Court and the Hon'ble NGT, time and again over the past three decades (commencing in 1987), in public interest, for enforcement of the provisions of environment, wildlife, forest, pollution, mining laws, and the Coastal Regulation Zone Notification of 1991/2011. All its members

are citizens of India. Registration certification and names of office bearers of the Society are herein marked and annexed to the petition as **Annexure B colly.** The average annual income of the Petitioner society is Rs.6 lakhs. The Petitioner states that there is no civil, criminal or revenue litigation involving the Petitioner organization which has or could have a legal nexus with the issue involved in this PIL. Undertaking that the petitioner will disclose the source of information leading to the filing of the PIL is herein marked and annexed at **Annexure C.**

Declaration of the Petitioner

3. The Petitioner states that this petition is filed by way of public interest and the petitioner does not have any personal interest in the matter. The PIL is filed in the interests of ensuring access to justice to the citizens of Goa.

4. The Petitioner states that the entire litigation costs and other charges are being borne by the petitioner organization. Petitioner's advocate has taken up the matter pro bono and no legal fees are charged to the organization.

5. The Petitioner states that adequate research has been conducted in the matter raised through the petition and all relevant material has been annexed to the petition.

6. The Petitioner has understood that in the course of hearing of this petition, the Court may require any security to be furnished towards costs or any other charges and the petitioner shall comply with such charges.

Facts constituting the cause

7. The Respondent No.1 is the MoEF&CC. It is the nodal agency in the administrative structure of the Central Government for the planning, promotion,

co-ordination and overseeing the implementation of India's environmental and forestry policies and programmes.

8. The Petitioner states that the National Green Tribunal (Hereinafter, NGT) was established on 18.10.2010 under the National Green Tribunal Act, 2010 for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment. The NGT was set up as a specialized body to ensure speedy environmental justice and to reduce the burden of litigation in higher Courts. Much of the thrust provided for setting up of the Tribunal came from the Hon'ble Supreme Court of India. The structure of the NGT envisages a principal bench at New Delhi, and 4 other zonal Benches (North, South, East and West) for better accessibility to all citizens.

9. Vide notification dated 17.08.2011, the Central Government specified Pune as the ordinary place of sitting of the National Green Tribunal (Western Zone) Bench, which shall exercise jurisdiction in the area/ territorial jurisdiction of Maharashtra, Gujarat, Goa, with Union Territories of Daman, Diu and Dadra and Nagar Haveli. Copy of the notification is hereto annexed as **Annexure D**.

10. The Petitioner submits that the citizens of Goa have been very active and vigilant in bringing forth environmental issues and violations before the NGT, Pune. Ordinary citizens have gone to NGT to protect turtle nesting sites, CRZ areas, sand dunes and mangroves, khazan lands and embankments, private forests, in addition to seeking reliefs against illegal mining, compensation from bad mining practice, challenges against ECs granted, etc. The Hon'ble Tribunal has heard them and granted reliefs, since the protection of the environment and the right to a healthy environment is part and parcel of the Right to Life under Article 21 of the Constitution of India.

11. In fact, 45 percent of the cases at the NGT, Pune are from the State of Goa. For this reason, according to a news report in the *Herald* dated 20.06.2017, noting the high number of cases from the State, the NGT Bar Association of the Western Zone had recommended the creation of a separate Bench of the NGT at Goa. A copy of the news report in the *Herald* dated 20.06.2017 is herein enclosed as **Annexure E.**

12. The Petitioner's counsel had also previously addressed a detailed plea vide letter dated 25.05.2015 to the Chairperson of the Tribunal, pleading for a circuit bench at in Goa. There was no response from the NGT, Delhi to the said plea. A copy of the letter date 25.05.2015 is herein enclosed as **Annexure F**.

13. Instead, on 10.08.2017, the MoEF&CC without notice overnight shifted the jurisdiction of the cases from the State of Goa from the Western Bench at Pune, to the Central Bench at New Delhi, vide a Notification in the official Gazette of India. The impugned notification is a blatant and gross violation of the Fundamental Rights of the people of Goa, guaranteed under the Constitution of India. This is a malicious and malafide attack upon the people and organizations striving to protect and conserve the environment, wildlife and biodiversity. It therefore needs to be quashed and set aside in the interests of justice and environment protection. The effect of the notification would be to compromise the fundamental rights of the citizens of Goa guaranteed under Articles 14 and 21 of the Constitution of India, and in furtherance of which the NGT Act itself was set up pursuant to directions of the Hon'ble Supreme Court which actually monitored the set up of the Principal Bench.

GROUNDS

14. The Petitioner therefore challenges Sr. no 1 and 2 of the impugned Notification, on following grounds, among others:-

a) Access to Justice has been established as a Fundamental Right under the Constitution of India. A Constitution Bench of the Supreme Court in *Anita Khushwa v. Pushpa Sadan* [(2016) 8 SCC 509], vide judgment dated 19.07.2016 declared that Access to Justice is not only to be found in Article 21 but also under Article 14. In para. 28 of the judgment, the Court has stated:

> "28. Absence of any adjudicatory mechanism or the inadequacy of such mechanism, needless to say, is bound to prevent those looking for enforcement of their right to equality before laws and equal protection of the laws from seeking redress and thereby negate the guarantee of equality before laws or equal protection of laws and reduce it to a mere teasing illusion. Article 21 of the Constitution apart, access to justice can be said to be part of the guarantee contained in Article 14 as well."

b) The Hon'ble Supreme Court in *Anita Khushwa v. Pushpa Sadan* [(2016) 8 SCC 509] has also explicitly identified 'reasonable distance' and 'affordability' as necessary facets of Access to Justice. In para. 30 of the judgment, the Court stated:

> "30. **(ii) The mechanism must be conveniently accessible in terms of distance:** The forum/mechanism so provided must, having regard to the hierarchy of courts/tribunals, be reasonably accessible in terms of distance for access to justice since so much depends upon the

ability of the litigant to place his/her grievance effectively before the court/tribunal/court/competent authority to grant such a relief.

(iv) The process of adjudication must be affordable to the disputants: Access to justice will again be no more than an illusion if the adjudicatory mechanism provided is so expensive as to deter a disputant from taking resort to the same."

c) The NGT has been established specifically to deal with cases that arise out of substantial environmental questions and the statues mentioned under Schedule I of the NGT, Act- the Air Act, Water Act, EP Act, etc. All such matters relating to the environment can only be brought before and adjudicated upon by the relevant bench of the NGT. Section 29 (2) of the NGT Act bars the jurisdiction of all civil Courts with regard to any claim for granting any relief or compensation or restitution of property damaged or environment damaged which may be adjudicated upon by the Tribunal. In October 2013, the High Court of Bombay at Goa, with the consent of the parties involved, transferred a large number of environmental cases before it to the NGT, considering the nature of the reliefs sought. A copy of one such Order of the Hon'ble High Court dated 17.10.2013 is herein enclosed as <u>Annexure G.</u> The State of Goa is a natural treasure trove, consisting of beaches, forests, rivers, lakes and a multitude of biodiversity, wildlife and natural resources. However, this natural bounty is constantly at threat due to rampant development, mining, tourism, etc, and thus in need of effective and adequate redressal mechanisms for enforcement of environmental norms. In fact, 45% of the cases at the NGT, Pune arise from the State of Goa. The very purpose of the NGT Act, 2010 enacted by Parliament for resolving environmental disputes, and provide effective access to judicial and *administrative proceedings is defeated if petitioners are unable to access the*

NGT easily, when compared to other citizens in other parts of the country. If the NGT is shifted to Delhi, 1873 km away, it would ensure that the people of Goa have absolutely no speedy and effective avenue to address the numerous environmental concerns and violations that arise within their State.

d) The jurisdiction of the NGT so far has been territorial, divided into zones based on geographical locations- North, South, East, West and Central. The States falling within the jurisdiction of each bench has been decided on geographical proximity, in order to provide as much accessibility as possible, given the limited number of benches. Further, the NGT Practice and Procedure Rules, 2011 provide for the adoption of a Circuit Procedure, in order to make itself more accessible. Circuit Benches have been established at Shimla, Jodhpur, Shillong and Kochi to hear cases from the respective States.While there exists a bench at Pune (400 km away), it is wholly unreasonable, unjust and arbitrary to shift the jurisdiction of the cases arising out of Goa to the Principal bench at Delhi- 1873 km away! This is a direct attack on the Fundamental Rights of the citizens to have access to justice. It would be completely impossible for the citizens and litigants from Goa to shuttle between Goa and Delhi in terms of time, money and convenience. Almost all litigants, including the present petitioner, would be unable to prosecute their matters effectively and would eventually drop out all together, which is what the Respondent No.1 desires for reasons best known to it.

e) Further, the reality of environmental litigation is such that most often, the applicants and petitioners are individuals from a lower economic background or NGOs with limited budgets. Though Pune is 400 km away from Goa, the citizens make the effort to travel to Pune overnight by bus or by train. Despite financial constraints, the citizens of Goa and the NGOs in

the State have actively been enforcing their legal rights and persevering to protect the environment. At Pune, petitioners and applicants, stay with friends and relatives. Those with none in the city are forced to stay at hotels, incurring further costs. Some litigators, constrained by time, travel to Pune by train, arrive early, wait at the railway station, attend proceedings at the NGT and return to Goa the same evening by train. Fighting for the environment is already difficult and expensive for the citizens of Goa. This will become impossible if the jurisdiction is shifted to Delhi. The hike in the costs to be incurred by the people would be enormous, unaffordable and completely unjust.

f) The impugned Notification creates a completely unjust situation for petitioners and litigants from Goa whose cases are currently pending and part heard before the NGT at Pune. Additionally, transferring the jurisdiction of the current cases from Goa to NGT, Delhi would mean transferring almost half the load of the Western Zone to Delhi, which is already loaded with cases. The Delhi Bench already hears cases from Uttar Pradesh, Uttarakhand, Punjab, Haryana, Himachal Pradesh, Jammu and Kashmir, Delhi and Chandigarh. This will create a huge backlog and burden upon the NGT in Delhi, creating an extremely inefficient system, affecting the rights of persons before the Delhi bench, and the persons from Goa who will have to wait in long queues for their case to be heard.. Eventually, it would ensure that petitioners desist from using the tribunal for reliefs, enabling those terrorising the environment to have a field day.

g) The removal of Goa from the jurisdiction of the West Zone of the NGT is rife with mala fide intent. It is a completely undemocratic move made at the instigation of the State Government which has been promoting the shift to Delhi in public statements under the specious grounds that its officers

find it troublesome and expensive to travel to Pune. The NGT has not been set up for the convenience of the state government, but for those in need of environmental justice. Often, it is the state government that is directly connected with environmental violations. Further, there was no draft notification or call for suggestions or objections from the public that would be affected so drastically. This Hon'ble Court may call for the records of the matter and examine the basis on which the decision has been made. There can be absolutely no justification for this arbitrary and unjust attack on the fundamental rights of the citizens.

h) Such other and further grounds that may be urged at the time of hearing.

15. In the above circumstances, the Petitioners have no other alternate remedy but to file the present petition. The Petitioner submits that the impugned notification shall cause prejudice to the people in the State of Goa, which shall result into injustice to the Petitioners and others.

16. The Petitioner states that under the facts and circumstances if this Hon'ble Court grants the prayers then there would be complete justice to the Petitioner and to the society at large which it represents in public interest.

17. The Petitioner has not filed any other petition on the subject matter of this petition before this Hon'ble Court or the Hon'ble Supreme Court.

18. That the copies of the documents annexed to this petition are the true copies of the originals.

19. The Petitioners states that this Hon'ble Court has jurisdiction to entertain, try and dispose of the present petition. The Petitioners have no other efficacious

remedy except filing of present petition and by granting relief the Petitioners shall get justice.

20. The court fee of Rs. 150/- is paid herewith.

Source of Information

21. The Petitioner is relying on information published in the Official Gazette of India and the media.

Delay, if any in filing the petition

22. There is no delay in filing this petition. The impugned notification was issued on the 10.08.2017. It became known to the Petitioners through news paper reports published on 20.08.2017. The Petitioners have approached this Court as soon as possible in order to ensure access to Justice to the citizens of Goa. Therefore the PIL is filed on time.

Reliefs prayed for

23. The Petitioner is therefore approaching this Hon'ble Court for the following reliefs, among others:

PRAYERS:

a) This Hon'ble Court may be pleased to call for the records dealing with the impugned notification and after examining these, modify Sr. No. 1 and 2 of impugned Notification dated 10.08.2017 to shift the territorial jurisdiction of the NGT over the State of Goa, to the Western Zone at Pune;

b) for the costs of this Petition

c) Any other order deem fit and proper in the facts and circumstances of case.

INTERIM RELIEFS:

d) Pending hearing and final disposal of this petition, for an ad-interim, ex-parte order staying the operation of the impugned Notification at Serial Nos.1 and 2 with respect to the state of Goa.

Place: Panaji-Goa.

Date:- 23 /08/2017

Petitioner

VERIFICATION

I, Claude Alvares, the Petitioner above named, hereby do verify that the contents of paras 1(p), 2-9, 10(p), 11-12, 13(p), 15(p), and 16-17, 18(p), 19 -21of the accompanying application are in the nature of facts which are true to my own knowledge and belief and the contents of paras 1(p), 10(p), 13(p), 14, 15(p),18 (p), 22 and 23 are my submissions, made on legal advice which I believe to be true and correct. No part of it is false and nothing material has been concealed therefrom.

Solemnly affirmed and verified at

Panaji on this 23rd day of August, 2017 Deponent

Identified by me.

Advocate for Petitioner

IN THE HIGH COURT OF BOMBAY AT GOA

AT PANAJI GOA

PIL WRIT PETITION NO. /2017

The Goa Foundation)... Petitioners

v/s

Ministry of Environment, Forest and Climate Change)... Respondents

AFFIDAVIT IN SUPPORT OF THE PETITION

1. I have today filed a writ petition in public interest for the reliefs sought therein.

2. I state that there is no personal gain, private motive or oblique reason in filing the PIL.

3. The petitioner is ready to pay costs as ordered by the Court, if it is ultimately held that the petition is frivolous or has been filed for extraneous considerations or that it lacks *bona fides*.

4. The petitioner shall disclose the source of its information, leading to the filing of the PIL, if and when called upon by the Court, to do so.

5. I solemnly declare and say that what has been stated of of paras 1(p), 2-9, 10(p), 11-12, 13(p), 15(p), and 16-17, 18(p), 19 -21of the accompanying application are in the nature of facts which are true to my own knowledge and belief and the contents of paras 1(p), 10(p), 13(p), 14, 15(p),18 (p), 22 and 23are my submissions, made on legal advice which I believe to be true

and correct. No part of it is false and nothing material has been concealed therefrom. The documents annexed are true copies of their originals.

Solemnly affirmed at Panaji
this the 23rd day of August, 2017

Deponent

ANNEXURE A 20

रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 3—उप-खण्ड (ii)
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पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 10 अगस्त, 2017

का.आ. 2582(अ).—केन्द्रीय सरकार, राष्ट्रीय हरित अधिकरण अधिनियम, 2010 (2010 का 19) की धारा 4 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा भारत सरकार, के तत्कालीन पर्यावरण और वन मंत्रालय की अधिसूचना संख्यांक का.आ. 1003 (अ) तारीख 5 मई, 2011 तथा का.आ. 1908 (अ) तारीख 17 अगस्त, 2011 का उन बातों के सिवाय अधिक्रमण करते हुए, जिन्हें ऐसे अधिक्रमण से पूर्व किया गया है या किए जाने का लोप किया गया है, एतद्द्वारा, राष्ट्रीय हरित अधिकरण की बैठक के सामान्य स्थानों तथा राज्यक्षेत्रीय क्षेत्राधिकार को निम्न प्रकार विनिर्दिष्ट करती है:-

सारणी

क्रम सं.	जोन	बैठक का स्थान	राज्यक्षेत्रीय क्षेत्राधिकार
(1)	(2)	(3)	(4)
1	उत्तरी	दिल्ली (प्रधान स्थान)	उत्तर प्रदेश, उत्तराखंड, पंजाब, हरियाणा, हिमाचल प्रदेश, जम्मू-कश्मीर, गोवा, राष्ट्रीय राजधानी क्षेत्र दिल्ली और संघ राज्य क्षेत्र चंडीगढ़, दमन एवं दीव तथा दादरा एवं नगर हवेली।
2	पश्चिमी	पुणे	महाराष्ट्र और गुजरात।
3	मध्य	भोपाल	मध्य प्रदेश, राजस्थान और छत्तीसगढ़
4	दक्षिणी	चेन्नै	केरल, तमिलनाडु, आंध्र प्रदेश, तेलंगाना, कर्नाटक तथा संघ राज्य क्षेत्र पुडुचेरी एवं लक्षदीप

5	पूर्वी	कोलकाता	पश्चिम बंगाल, ओडिशा, बिहार, झारखंड, असम, अरूणाचल प्रदेश, मणिपुर, मेघालय, मिजोरम, नागालैंड, त्रिपुरा, सिक्किम तथा संघ राज्य क्षेत्र अंडमान और निकोबार द्वीप समूह

[फा. सं. 17 (4)/2010-पीएल/एनजीटी (खण्ड IV)]

अरूण कुमार मेहता, अपर सचिव

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 10th August, 2017

S.O. 2582(E).—In exercise of powers conferred by sub-section (3) of section 4 of the National Green Tribunal Act, 2010 (19 of 2010) and in supersession of the notifications of the Government of India in the erstwhile Ministry of Environment and Forests number S. O. 1003(E), dated the 5th May, 2011 and number S.O. 1908(E), dated the 17th August, 2011, except as respected things done or omitted to be done before such supersession, the Central Government hereby specifies the ordinary places of sitting and the territorial jurisdiction of the National Green Tribunal as under:—

TABLE

Sl. No.	Zone	Place of sitting	Territorial jurisdiction
(1)	(2)	(3)	(4)
1.	Northern	Delhi (Principal place)	Uttar Pradesh, Uttarakhand, Punjab, Haryana, Himachal Pradesh, Jammu and Kashmir, Goa, National Capital Territory of Delhi and Union territories of Chandigarh, Daman and Diu and Dadra and Nagar Haveli.
2.	Western	Pune	Maharashtra and Gujarat.
3.	Central	Bhopal	Madhya Pradesh, Rajasthan and Chhattisgarh.
4.	Southern	Chennai	Kerala, Tamil Nadu, Andhra Pradesh, Telangana, Karnataka, Union territories of Puducherry and Lakshadweep.
5.	Eastern	Kolkata	West Bengal, Odisha, Bihar, Jharkhand, Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Sikkim and Union territory of Andaman and Nicobar Islands.

[F. No. 17(4)/2010-PL/NGT(Vol.IV)]

ARUN KUMAR MEHTA, Addl. Secy.

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ALOK KUMAR
Digitally signed by ALOK KUMAR
Date: 2017.08.14 15:32:54 +05'30'

22

ANNEXURE B colly

C E R T I F I C A T E

In view of the Affidavit filed by the Secretary of the Society ' THE GOA FOUNDATION ' for the purpose of 3 (B) (4) of the Societies Registration (Goa Amendment) Act,1998, it is hereby certified that the registration of the said Society, registered under the Societies Registration Act, 1860 under No.23/Goa/86 is hereby renewed for a further period of five years w.e.f. 11-6-2000.

Dated :- 2nd October 2000.

OFFICE OF THE REGISTRAR OF SOCIETIES
पणजी
PANAJI

(P. V. S. Sardessai)
Inspector General
By -Order

Registration renewed till 11-06-2015
Dated 21/01/2011

Inspector General of Societies/
/District Registrar (North Goa)
By Order

21/1/2011

Office of Inspector General of Societies
निबंधक महानिरिक्षकाचे कार्यालय

Registration renewed till 11-06-2020
Dated 24-09-2015

Inspector General of Societies/
District Registrar (North Goa)
By Order

24/9/2015

Office of Inspector General of Societies
North Goa Panaji

2023

23

The Goa Foundation

Rm.7, Le Brag Chambers,
Above Mapusa Clinic, Mapusa 403507 Goa.

SCHEDULE I
(See rule 6)
Statement of annual list of persons referred to in Section 4 of Societies Registration Act, 1860

Name and address of the Society: THE GOA FOUNDATION
Registration No. under the Societies Registration Act, 1860: 23/GOA/86
Date of election and period for which elected: 20.9.2013 FOR THREE YEARS
Period for which the list is filled: 20.9.2013 – 19.9.2016

Sr. No.	Name	Occupation	Age	Designation
1	2	3	4	5
1.	Mathias Vaz Rua da Ourem, Panaji, Goa	Printer	67	President
2.	Claude Alvares Almeidavaddo, Parra, Goa	Publisher	67	Secretary
3.	Christine Fernandes Rua da Ourem, Panaji, Goa	Housewife	54	Treasurer
4.	Jamshed Madon Parra	Business	44	Exec. Member
5.	Dean D'Cruz Defence Colony, Porvorim	Architect	56	Exec. Member

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The Goa Foundation

G-8, St. Britto's Apartments,
Feira Alta, Mapusa 403507 Goa.
Phones: 2256479
www.goafoundation.org
email: goafoundation@gmail.com
12.1.2014

Truecopy

RESOLUTION OF THE GOA FOUNDATION

"It is hereby resolved that in supersession of earlier resolutions dated 30.9.2010 and 4.1.2013, all new PILs and in all matters connected therewith filed by the Goa Foundation would be signed either by Mr Mathias Vaz, President or Dr Claude Alvares, the Secretary of the Association. This resolution to apply to all matters filed henceforth in the High Court of Bombay, Panaji bench; National Green Tribunal (Pune/Delhi) and Supreme Court of India."

Certified copy:

(Mathias Vaz)
President

ANNEXURE C

25

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO. OF 2017

The Goa Foundation)... Petitioner

v/s

Ministry of Environment, Forest and Climate Change)... Respondent

UNDERTAKING

I, Dr. Claude Alvares, Secretary, the Goa Foundation, petitioner, undertake that I will disclose the source of information leading to the filing of the Public Interest Litigation if and when called upon by the Court to do so.

(Dr. Claude Alvares)

Panaji

Date: 23.08.2017

Addressing the media in Goa, NGT Bar Association President Adv Asim Sarode said, "India has always been at lower side when it comes to guiding and protecting the environment or having balance between environment and development is concerned. The main reason for it is lack of political will. Successive governments have failed."

The lawyer added, "In many cases, political leaders have their vested interest like share or partnership with the project proponents."

Citing example of illegal dredging permission granted to Mormugao Port Trust (MPT), Sarode said it was a 'pretty shameful act' on part of MoEF to grant environment clearance to a project which commenced even before their clearance.

"MoEF is known for granting haphazard permission bulldozing environment. It is very unfortunate that after Jairam Ramesh (former Congress MoEF minister), India never got a good minister to guide the environment," he said.

"Moreover another Union minister (Nitin Gadkari) is coming to Goa and inaugurating illegal dredging activity which was not even been granted EC by MoEF. It came only after work was midway and local fishing community approached NGT," he stated.

The senior lawyer claimed that of the cases filed before NGT, 45 percent are from Goa a majority which comprise of coastal regulation zone (CRZ) violations. "I believe, considering the number of cases filed in NGT from Goa, the NGT chairman should consider setting up a branch in the State for benefit of public," he said.

ANNEXURE F

30

Norma Alvares, Advocate
G-8, St. Britto's Apartments
Feira Alta, Mapusa – Goa 403 507
Tel. No. 2256479 Email: cnalvares@gmail.com

25th May 2015

To:

The Hon'ble Chairman
National Green Tribunal,
Principal Bench at Delhi
Faridkot House, Copernicus Marg
New Delhi

Sub: Some suggestions for improvements at the Hon'ble NGT (WZ) at Pune

Respected Hon'ble Mr. Justice Swatantar Kumar,

I am a practicing advocate and have been appearing before the NGT at Pune since the past two years. In October 2013, I had given my consent to transfer around 15 PILs from the Bombay High Court at Goa to the NGT at Pune and initially, my appearances at the NGT were in connection with these transferred PILs (where I generally represented the petitioners). Subsequently I have filed around half a dozen more cases.

I am happy to state that of the initial lot of cases transferred to the NGT, around 11 matters have been heard and disposed of within a year i.e. before the end of December 2014. Some of these matters were pending at the High Court since 2003. Of the four pending matters, one has been stayed by the Hon'ble Supreme Court, 2 connected matters are adjourned sine die by the Hon'ble NGT due to orders passed by the High Court at Goa, and only one is still awaiting final hearing.

I write about this in some detail only to express my appreciation for the expeditious disposal by the NGT of long outstanding matters and for the steady, relentless pressure put by the Tribunal on litigants and lawyers alike, to speedily complete pleadings so that the matters may be taken to a conclusion. This is not just my experience, but I am confident that it would be the view of many others who have participated in the proceedings at the NGT (WZ), Pune.

It is in the light of the above experience that I make bold to offer some suggestions for your consideration relating to improvement of the functioning of the NGT (WZ) at Pune.

(1) I request that you may kindly consider permission for sittings of the NGT (WZ) to be held in Goa, on one day every week or two days every fortnight.

The reason for this request is to cut down travel time and cost involved in filing of matters from Goa before the NGT. A large number of applications and appeals emanate from Goa. Hence, a large number of litigants and lawyers travel every week from Goa to Pune and back. Flights between Goa - Pune are only two per day and both operate at midday. Hence lawyers must assign around three days (inclusive of travel) for a hearing at NGT, or must travel via Mumbai which entails additional expense for the client.

The NGT has been considerate to generally reserve matters from Goa to be heard on Thursdays and Fridays, chiefly for the convenience of Goa-based lawyers. This enables the lawyers from Goa to argue several matters on the same day. Still, that does'nt work always. Public Interest litigants are therefore compelled to choose to appear in person (which is not altogether a bad idea) simply because the travel cost of counsel would be prohibitive, even if the counsel's appearances are pro bono.

In the circumstances, and considering that there is sufficient work load for the Tribunal every week of matters emanating from Goa, it would be extremely beneficial for every one - lawyers and litigants alike - if sittings of the NGT are held once a week or twice a month in Goa.

I am certain that the Government of Goa would be willing to make the premises and infrastructure available, more so as it would also benefit the government who has to constantly send several of its counsel to Goa.

(2) I request for appointment of additional Expert Members to the Tribunal

The Tribunal presently has only one Expert member who, to the best of my knowledge, is an expert in matters pertaining to pollution of the environment. As a large number of applications and appeals are undoubtedly on matters of pollution – air, water, noise, MSW etc – the appointment of this Expert member is most appropriate. In fact, the excellent expertise that is available with the NGT at Pune is clearly visible during the proceedings and also in the orders and directions that are passed by the Tribunal.

However there are others matters too which come before the Tribunal. such as protection of forests, protection of coastal ecosystems (sand dunes, fisheries, mangroves etc). Although such matters may be occasional, it would be useful if experts in these areas are also appointed, who can be requested to provide assistance to the Hon'ble Tribunal, as and when such occasion arises. This would only enhance the prestige of the NGT and enable it to render effective justice in specialized environment related matters.

I apologise for the lengthy communication. I thank you for reading through it. I hope you will consider my suggestions favourably.

Yours sincerely,

Ms. Norma Alvares

ANNEXURE B.G

33

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 344 OF 2002
AND
MISC. APPLICATION NOS. 404 OF 2008, 370 OF 2008, 373 OF 2008 AND 372 OF 2008

Sandeep Azrenkar, Margao Goa & Anr. .... Petitioners

Versus

State of Goa and others ... Respondents

Mrs. N. Alvares, Advocate for the petitioners.

Mr. P. Dangui, Additional Government Advocate for respondent nos. 1 to 3 and 7.

Mr. J. E.Coelho Pereira, Senior Advocate with Mr. J. Godinho, Advocate for respondent no. 6.

Mr. S. D.Lotlikar, Senior Advocate with Ms. N. Patil, Advocate for respondent nos. 9 to 15 and 17 to 52.

CORAM : DR. D. Y. CHANDRACHUD & F. M. REIS, JJ.

DATE : 17th October, 2013.

P.C :

Considering the nature of the reliefs sought, we transfer the proceedings to the National Green Tribunal. The Registrar (Judicial) shall take necessary steps to implement this order.

All rights and contentions of the parties with

regard to the merits of the case including the objections, if any, in respect of the report submitted are kept open.

DR. D. Y. CHANDRACHUD, J

F. M. REIS, J

at*

IN THE HIGH COURT OF BOMBAY AT GOA

SOU MOTU WRIT PETITION No. 1 of 2017

In the matter of:

High Court at Goa ....Petitioner

Versus

Union of India ....Respondents

SHORT COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT [MOEF]

I, C.S. Thakur, S/o of Late Bangali Thakur aged 47 years working as the Under Secretary in the Ministry of Environment, Forest and Climate Change (MOEF & CC), government of India, at Indira Paryavaran Bhavan, Jor Bagh Road, New Delhi – 110003, do hereby solemnly affirm and sincerely state as follows:

1. I respectfully submit that in my abovementioned official capacity, I am conversant with the facts of the case and I am competent and duly authorized to file the present affidavit on behalf of the Respondent (MoEF& CC).

2. I respectfully submit that this Affidavit – in- Reply is filed for the limited purpose of stating the reasons and justification for the change in jurisdiction of the Hon'ble National Green Tribunal [hereinafter referred to as the NGT] in respect of the State of Goa. I state that this is a preliminary affidavit and therefore, the Affiant Respondent craves leave of this Hon'ble Court to file a further affidavit, if so required.

3. It is the respectfully submitted that before dealing with the petition, the following facts which are relevant to the present case are placed on record for consideration of this Hon'ble Court.

4. It is respectfully submitted that Parliament enacted the National Green Tribunal Act, 2010 (19 of 2010) [hereinafter referred to as 'NGT Act, 2010'] for the effective and expeditious disposal of cases relating to environmental protection and conservation of forest and other natural resources including the enforcement of any legal right relating to the environment and giving relief and compensation for damages to persons and property and for matters connected therewith and incidental thereto.

5. It is respectfully submitted that in exercise of the powers conferred under Section 3 of the NGT Act, 2010, the Central Government established the National Green Tribunal [hereinafter referred to as 'NGT'] vide Notification dated 18th October 2010 **(Annexure – 1)**. Subsequently, in accordance with the provision of Sub – Section 3 of Section 4 of the NGT Act, the MoEF& CC, vide Notification No. 1908(E) dated 17.08.2011 **(Annexure – 2)** has notified the ordinary places of sitting of the NGT and their corresponding territorial jurisdiction of the places of sitting. It is further submitted that as per clause (b) of Sub – Section 4 of Section 4, the Central Government has framed the Rules for regulating the practices and procedure for hearing by the NGT at a place other than the ordinary place of sitting.

6. It is respectfully submitted that in the month of November, 2015 a request was received from the Hon'ble Chief Minister, State of Goa requesting that the jurisdiction of the Hon'ble NGT in respect of the State of Goa be shifted from Pune and a bench of the Hon'ble NGT be established at Goa. It was emphasized therein that the territorial jurisdiction of the State of Goa being at the Western Zone bench of NGT at Pune, has created several difficulties, hardship and serious prejudice to a and the same was distant, inconvenient and serious prejudice to the interest of the State of Goa and the State Government.

7. It is respectfully submitted that the matter was earlier examined by the Ministry in consultation with the Chairperson of the Hon'ble NGt, NGT Chairperson, and it was the NGT who suggested that the NGT could either transfer all the cases pending before the Western Zone Bench at Pune to the Principal Bench at New Delhi and deal in accordance with law or in the alternative a Circuit Bench of the Hon'ble NGT could be established in order to give instant relief to the people of the State of Goa, as this would help in providing environmental justice to the people of Goa at their doorstep, as well as prove quite economical for the State of Goa.

8. It is respectfully submitted that the matter was discussed with the then Hon'ble Minister, MoEF& CC by the Additional Secretary, MoEF& CC on 21.12.2015 and it was suggested that a Circuit Bench at Goa may be a better option. Further, the Chief Secretary, Government of Goawas informed on 21.12.2015 that a Circuit Bench could be set up at Goa subject to the availability of suitable space, accommodation etc. The

Chief Secretary, Government of Goa on 24.02.2016 replied that the Govt. of Goa appreciated the consideration of establishing a Circuit Bench of the Hon'ble NGT at Goa. The State of Goa has also requested that specific terms regarding the logistics to be arranged along with the financial implications, if any, be conveyed to the State Government for further examination of the issue. The same was communicated to the Hon'ble NGtvide communication dated 09.03.2016. Thereafter, nofurther communication was received from either side in this regard.

9. It is respectfully submitted that a fresh request was received from the present Chief Minister for the State of Goa dated 09.06.2017, requesting to bring the State of Goa under the jurisdiction of the Principal Bench of the Hon'ble NGT at New Delhi, the reason being that having to travel to Pune is logistically inconvenient and a serious financial burden for the people of the State of Goa.

10. It was explained therein that Pune and Goa are inconveniently and insufficiently connected as there are limited flight available i.e. only 2 flights per day in the afternoon, and therefore, litigants, parties and lawyers alike are mandated to travel a day prior to the matter and depart only the day after the matter concludes which seriously and increases the cost involved. The only alternative being is to travel to Mumbai and then travel back to Goa which is an expensive exercise and in fact an unnecessary additional cost being incurred.

11. It was further explained therein that, due to the bad flight connectivity between Pune and Goa many litigants, parties and

lawyers would travel by road to Pune. In any case, this is a dangerous mode of travel but this route is particularly dangerous given that it involves traversing across the Western Ghat region, which is especially precarious during the monsoon season i.e. is for essentially six months of the year.

12. Furthermore, it was emphasized therein that State Government and the State exchequer were the most inconvenienced and financially burdened by having to appear before the Hon'ble NGT at Pune, particularly because, the State Government is essentially a party in almost every matter filed and heard before the Hon'ble NGT, and therefore, constantly has officers and representatives of the Government who are required to travel to Pune and return only after 3 days which creates a backlog and inefficiency in the government office/department concerned; or in the alternative, they are compelled hire a taxi and risk their lives by travelling back by road at night.

13. Conversely, it was explained that New Delhi is far better connected with Goa and therefore, litigants, parties, lawyers and officers of the government can easily travel to New Delhi attend the matter and return the very same day. In case of a part heard matter spills over to the next day reasonable accommodation at concessional rates is proposed to be provided to litigants, parties, lawyers and officers of the government at Goa Niwas and Goa Sadan in New Delhi. We are informed that this facility is not available in Pune and as such litigants, parties, lawyers and officers of the government are compelled to stay in hotels at a high cost.

14. Moreover, it was emphasized therein that the State Government has an entire panel of lawyers appointed and available to attend to the matters in New Delhi while it has only one appointed lawyer in Pune. Therefore, the State Government is required to periodically send lawyer in addition to officers/representatives of the State Government for urgent and important matters which apart from being inconvenient and expensive has an adverse effect on the proceeding before this Hon'ble Court. Therefore, in consideration of the aforesaid it emphatically explained that Pune as a regular place of hearing in respect of the State of Goa is logistically inconvenient andis a seriousfinancial burden on the State Exchequer and more importantly the people of Goa.

15. It is respectfully submitted that as per available records, the matter was again discussed between the Hon'ble Minister, MoEF& CC and the Chairperson of the Hon'ble NGT; and keeping in view the fact that the Hon'ble Chief Minister of the State of Goa represents the views and opinion of the public, it has been decided to include the State of Goa in the jurisdiction of the Principal Bench of the Hon'ble NGT at New Delhi with the approval of the Hon'ble Minister of MoEF& CC on 10.08.2017 instead of the Western Zone Bench, at Pune. Accordingly the said Notification was issued on 10.08.2017 which was published in the Gazette of India on 11.08.2017.

16. In view of the foregoing submissions, I respectfully submit that the shifting of jurisdiction with respect of the State of Goa from the Western Zone Bench of Hon'ble NGT, at Pune to the Principal Bench of the Hon'ble NGT at New Delhi is a well

considered decision. The aforementioned Notification is in order and was made in public interest.

17. It is therefore, prayed that the Order dated 21.08.2017 passed by this Hon'ble Court may be pleased to be amended as withdrawn in the interest of justice.

18. I state that whatever has been stated hereinabove is partly based on the records made available to my good offices and to which I have access, and, is partly based on legal submissions, which I

Solemnly affirmed on
This st day of September, 2017

Deponent

Identified by me:

VERIFICATION

Veried in New Delhi on this day of September 2017 that the contents of the above Affidavit are true and correct to true and correct to the best of my knowledge and that no part of it is false and nothing has been concealed there from.

DEPONENT

MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi, the 17th August, 2011

S.O. 1908(E).—In exercise of powers conferred by sub-section (3) of Section 4 of the National Green Tribunal Act, 2010 (19th of 2010), the Central Government hereby specifies the following ordinary places of sitting of the National Green Tribunal which shall exercise jurisdiction in the area indicated against each :—

Serial number	Zone	Place of Sitting	Territorial Jurisdiction
1.	Northern	Delhi (Principal place)	Uttar Pradesh, Uttarakhand, Punjab, Haryana, Himachal Pradesh, Jammu and Kashmir, National Capital Territory of Delhi and Union Territory of Chandigarh.
2.	Western	Pune	Maharashtra, Gujarat, Goa with Union Territories of Daman and Diu and Dadra and Nagar Haveli.
3.	Central	Bhopal	Madhya Pradesh, Rajasthan and Chhattisgarh.
4.	Southern	Chennai	Kerala, Tamil Nadu, Andhra Pradesh, Karnataka, Union Territories of Pondicherry and Lakshadweep.
5.	Eastern	Kolkata	West Bengal, Orissa, Bihar, Jharkhand, seven sister States of North-Eastern region, Sikkim, Andaman and Nicobar Islands :

Provided that till the Benches of the National Green Tribunal become functional at Bhopal, Pune, Kolkata and Chennai, the aggrieved persons may file petitions before the National Green Tribunal at Delhi and till such time the notification No. S.O.1003(E), dated the 5th May, 2011 in the Ministry of Environment and Forests, shall continue to be operative.

[F. No. 17(4)/2010-PL]

RAJNEESH DUBE, Jt. Secy.

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भारत का राजपत्र
The Gazette of India

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EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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पर्यावरण और वन मंत्रालय

अधिसूचना

नई दिल्ली, 18 अक्तूबर, 2010

का.आ. 2569(अ).—केन्द्रीय सरकार, राष्ट्रीय हरित अधिकरण अधिनियम, 2010 (2010 का 19) की धारा 1 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तारीख 18 अक्तूबर, 2010 को, उस तारीख के रूप में, जिसको उक्त अधिनियम के समस्त उपबंध प्रवृत्त होंगे, नियत करती है ।

[फा. सं. 17/2/2010-पीएल]

रजनीश दुबे, संयुक्त सचिव

MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi, the 18th October, 2010

S.O. 2569(E).—In exercise of the powers conferred by sub-section (2) of Section 1 of the National Green Tribunal Act, 2010 (19 of 2010), the Central Government hereby appoints the 18th day of October, 2010, as the date on which all the provisions of the said Act shall come into force.

[F. No. 17/2/2010-PL]

RAJNEESH DUBE, Jt. Secy.

अधिसूचना

नई दिल्ली, 18 अक्तूबर, 2010

का.आ. 2570(अ).—केन्द्रीय सरकार, राष्ट्रीय हरित अधिकरण अधिनियम, 2010 (2010 का 19) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राष्ट्रीय हरित अधिकरण को, उक्त अधिनियम द्वारा या उसके अधीन उसको प्रदत्त अधिकारिता, शक्तियों और प्राधिकार का प्रयोग करने के लिए, स्थापना करती है ।

[फा. सं.-17/2/2010-पीएल]

रजनीश दुबे, संयुक्त सचिव

Norma 35

IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI GOA

PIL WRIT PETITION No. 22 of 2017

The Goa Foundation ... Petitioner

Versus

The Ministry of Environment,

forest and climate change and anr ....Respondents

NOTARY Adv. Mant... S. Salkar ENTIRE STATE OF GOA Reg. No. 3268 GOVT. OF INDIA

AFFIDAVI- IN-REPLY ON BEHALF

OF THE RESPONDENT No. 2 i.e. THE STATE OF GOA

I, Parag Nagarcenkar, Son of Shri Madhusudan Nagarcenkar, major of age, Indian National, residing at Ponda, Goa, do hereby on solemn affirmation, state and submit as under:

1. I state that I am presently posted as the Director, Environment and Member Secretary, GCZMA herein. I state that I have been authorised to file the present Affidavit-in-Reply on behalf of the Respondent No. 2.

2. I state that I am filing an Affidavit to place on record the reasons and circumstances that justify the issuance of Notification dated 11th August 2017 by the Ministry of Environment Forest & Climate Change [hereinafter referred to as 'MoEF' in the interest of brevity].

3. I state and submit that presently I am not dealing with the contention raised by the Petitioners in the connected Writ Petitions; however, the averments which have not been specifically dealt with and denied may not be construed as having been admitted by me. I reiterate that I am filing this Affidavit to the limited extent of explicating the reasons that justify the issuance of the impugned Notification dated 11th August 2017. I accordingly, reserve the right to file a detailed Affidavit, and accordingly crave leave of this Hon'ble Court to file detailed Affidavit(s) – in – Reply at a later stage in the proceedings.

4. I state and submit that the MoEF in exercise of its powers in terms of sub – section 3 of Section 4 of the National Green Tribunal Act, 2010 issued Notification No. 1908(E) dated 17th August 2011 and notified Pune to be the ordinary place of sitting of the Hon'ble National Green Tribunal for the Western Zone [hereinafter referred to as the 'NGT'] which included the territorial jurisdiction of the State of Goa. However, with the efflux of time it was noticed that Pune was proving to be logistically inconvenient and a significant financial strain on the Public Exchequer of the State of Goa.

5. I state and submit that Pune as a location is logistically inconvenient particularly because there are only 2 flights that connect Goa to Pune by air. Moreover, both these flights are scheduled approximately 20 minutes apart in the afternoon. Therefore, in order to attend a matter the concerned litigants/parties/govt. officers/lawyers are required to travel a day earlier than the scheduled date of hearing and stay overnight in Pune.

6. Furthermore, there are only 2 return flights available from Pune to Goa, also similarly scheduled 20 minutes apart in the afternoon, and therefore, it is impossible to effectively attend to the matter(s) before the Hon'ble NGT in Pune and return to Goa on the very same day. Thus in order to effectively attend to the hearing(s) before the Hon'ble NGT in Pune a litigants/parties/govt. officers/lawyers is required to stay in Pune for a minimum 3 working days before they can return to Goa.

Not so
Only if one travels by air/ direct flt
– Bus/ Train
– Via Mumbai

7. I state and submit that, this is a substantial additional expense precisely because the State of Goa neither has an official guest house nor any official accommodations in Pune, and therefore, litigants/parties/govt. officers/lawyers generally stay at hotels and the like which are expensive, and are in fact, an entirely unnecessary expense.

8. I state and submit that the alternative is to first travel to Mumbai and thereafter, catch a flight back to Goa later that

night, if one intends to return that day itself. Considering that the cost of flights to and from Mumbai are generally very expensive, with limited seats available as this is a very busy travel sector, this travel mode cannot be the usual journey. Therefore, most litigants/parties/govt. officers/lawyers are required to stay for a minimum of 3 working days in Pune which apart from the serious cost involved has far more serious implications in respect of the State Government, an issue that I will avert to in more detail later herein under.

9. I state and submit that in order to avoid the additional cost and expense involved several litigants/parties/govt. officers/lawyers have begun to travel to and from Pune by road. I need not advert to the inherent dangerous and risk involved in road travel; and in particular the route form Goa to Pune because, travellers are required to travel across the Western Ghats Region which is naturally perilous, owning to its steep slopes and narrow roads. I state and submit that this route is especially perilous during the monsoon season, which is approximately for 6 months of the year. Therefore, considering the serious risk to life posed by road travel it is not the preferred mode of travel to and from Pune. Moreover, Pune is not suitably connected to Goa via rail and therefore, air travel continues to be the preferred and most availed mode of travel. I state that as far as the State of Gujarat, who's Territorial Jurisdiction has also been vested with Western Zone; it is logistically well connected with Pune. I state that there are almost 4 direct flights scheduled between Ahmedabad and Pune, form

Ahmedabad Airport itself. I state that these flights are scheduled at adequate intervals during the day, and thereby, permitting the litigants/parties/govt. officers/lawyers from the State of Gujarat to travel to Pune, attend to the hearings scheduled and return on the very same day, if not the day after at the very latest. Thus, providing the litigants/parties/govt. officers/lawyers a varied possible travel itinerary, unlike that which is available to the litigants/parties/govt. officers/lawyers from the State of Goa. Moreover, apart from Ahmedabad there are several other airports in the State of Gujarat, which are also logistically well connected with Pune, and therefore, there is no real logistical issue for litigants/parties/govt. officers/lawyers from the State of Gujarat to submit to the jurisdiction and effectively attend to the hearing scheduled before the Western Zone Bench of the Hon'ble National Green Tribunal, at Pune.

10. I sight of the afore said, I humbly state and submit that the State Government is the most effected party by the logistical inconvenience of Pune as the ordinary place of hearing of NGT matters. This is precisely because the state is essentially party to almost every action/matter pertaining to the State of Goa. As a natural consequence several Government Officers and representatives are required to continuously and periodically travel to Pune attend hearings before the NGT Pune.

11. I state and submit that apart from the substantial cost involved, it has serious implications on the day to day functioning of the department/authority of the State of Goa. This is due to the fact that the Govt. Officers/representatives are

compelled to stay at least 3 days in Pune; lest the matter spills over to the next day as well, in which case another day necessary follows. I state and submit that this causes a backlog in the regular work of the concerned Govt. Officer/ representative of the State of Goa. This in turn has cascading adverse effect on the general efficiency and functioning of the Govt. department/authority concerned. I state and submit that this is not only opposed to the efficient administration of the State of Goa but also prejudicially affects the interest of people of the State of Goa.

12. Wherefore, in 2015 the Hon'ble Chief Minister of the State of Goa addressed and official communication to the MoEF explicating that Pune as the ordinary place of sitting of the NGT for the territorial jurisdiction of the State of Goa has caused several difficulties, financial hardship and has seriously prejudiced not only the State Government but re particularly to the ordinary citizen and litigant from the State Goa.

13. I state and submit that this communication was favourably received by the MoEF, and as a , on 21st December 2015 the Chief Secretary, State of Goa leased to receive a communication stating that in pursuance Chief Ministers communication it is proposed to establ Circuit Bench at Goa, subject to the availability of a suitabl ses.

14. I state and submit that the Chief Secretary for e of Goa promptly replied vide communication dated 24 ury 2016 requesting for further details as to t ic

requirements and financial implications involved, so as to make the necessary arraignments to facilitate the process of establishing a Circuit Bench at Goa. The same was in turn forwarded to the Hon'ble NGT by the MoEF vide communication dated 09th March 2016. However, no response and reply was received and consequently the matter abruptly came to a quietus.

15. However, the logistical inconvenience and hardship of having Pune as the regular place of hearing for NGT matters in respect of the State of Goa, continued to ensue for litigants/parties/govt. officers/lawyers from the State of Goa, and therefore, on 09th June 2017 the Hon'ble Chief Minister of the State of Goa was pleased to address another official communication to the MoEF reiterating with emphasis on the serious prejudice and hardship being occasioned to litigants/parties/govt. officers/lawyers from the State of Goa, and therefore, requested that the territorial jurisdiction in respect of the State of Goa be transferred to either Goa or New Delhi.

16. I state and submit that it is proposed to shift the territorial jurisdiction in respect of the State of Goa to New Delhi primarily because New Delhi is water connected to Goa via air travel, with upward of 17 flights scheduled daily at varied hours allowing litigants/parties/officers/lawyers from the State of Goa to travel to New Delhi on the very same day, and therefore, it is logistically convenient and preferred for

litigants/parties/govt. officers/lawyers to effectively attend to the scheduled hearings before the Hon'ble NGT.

17. Furthermore, in case of an overnight halt at New Delhi, the State of Goa has two official accommodations in New Delhi i.e. Goa Niwas and Goa Sadan; both of which are available at concessional rates and is proposed to be extended for the benefit of litigants/parties/govt. officers/lawyers traveling to New Delhi.

18. Moreover, the State of Goa has a panel of lawyers to represent and defend the interest of the State of Goa in New Delhi. Contrastingly, the State of Goa has only one lawyer appointed in Pune, and therefore, periodically lawyers appointed by the State are required to attend hearing at NGT Pune which apart from the financial implication also adversely affects the proceedings of matters, before this Hon'ble Court as well.

19. Similarly, such the change of the place of hearing of the NGT will also positively benefit the litigants and parties from the State of Goa particularly because, the NGT New Delhi has several competent and effective lawyers specifically handling environmental litigation and NGT matters, including an NGT Bar Association. This will be of immense help to the litigants and parties from the State of Goa as they would no longer be forced to engage lawyers from elsewhere, pay for their travel to and from Pune, their accommodation and related expenses in order to have effective representation before the Hon'ble NGT, Pune.

Surely helpful

One board - Goa Govt
Pune Delhi — effective rep
Pune — limited.
Surely govt is not because litigants are having poor counsel. Govt would be strengthen
Engage lawyers elsewhere

20. I state and submit that even assuming that lawyers will be engaged from elsewhere to represent litigants and parties from the State of Goa, New Delhi is a preferred place of hearing as it is far better connected with upward of 17 flights scheduled each day from Goa itself. In addition, budget and concessional accommodations are available at the Goa Niwas and Goa Sadan which will be cost efficient and alleviate the financial burden on the litigants and parties from the State of Goa.

21. Thus in cite of the aforementioned reasons the request of the State Government was duly considered by the MoEF in terms of the law, and, in due exercise of its powers conferred under Section 4 of National Green Tribunal Act, 2010 and relevant Rules has rightly exercised its discretion and issued the Notification of 11th August 2017; which in my respectful submission are both valid and legal.

22. In any case, converse to what is being sought to be espoused by the Petitioners in the connected Writ Petitions, I humble state and submit that no real prejudice or hardship will occasion to any litigants/parties/lawyers from the State of Goa if New Delhi is the regular place of hearing. On the contrary, every litigants/parties/govt. officers/lawyers stand to benefit from the better logistics and connectivity that New Delhi proposes to offer as the regular place of hearing, and, not forgetting the proximity of the Supreme Court of India in case of an action under Section 22 of the NGT Act.

23. I state that this Hon'ble Court has by its Order dated 12th September 2017 directed the affiant Respondent to address the issue as to the viability of a premise to establish a Circuit Bench of the Hon'ble NGT in Goa. I state that during the course of hearing the matter on the aforementioned date there were to specific suggestions put forth for consideration i.e., namely the *"old district court building"* and the *"Spaces"* building at Patto, Panaji. In view thereof, the affiant Respondent has inquired with the concerned department as to the availability of space in the *"old district court building"* in Panaji, as well as, the *"Spaces"* building at Patto, Panaji. I state that as far as old district court building is concerned, there are two courtrooms, which are vacant and are available. However, the same is proposed for modification/renovation in order to, occupy and relocate the existing courtroom from the Velho Felho building and establish one more District Court. I state that as regards the "Spaces" building at Patto, there are all together seven floors out of which four floors i.e. third, forth and fifth are allotted to the civil courts for court halls, judge's chambers, gents/ ladies bar room, record rooms, a muddemaal room, and, an office for taluka legal aid committee. I state that first and the second floor are occupied by the Goa State Infrastructure Development Corporation. I state that the seventh floor has been occupied by Rural and Development Agency. In view thereof, there is no space presently available at the *"Spaces"* building at Patto, Panaji.

24. Wherefore, I humbly state and submit that the State Government welcomes and supports the decision of the MoEF

dated 10th August 2017 and the consequent Notification dated 11th August 2017. As they have been duly and legally made in pursuance of its powers under Section 4 of NGT Act, 2010; and is in fact, in the larger public interest of the people of the State of Goa.

25. Therefore, I pray that this Hon'ble Court takes note of the cogent and justifiable reasons for the Notification of 11th August 2017 which is in the larger public interest, and accordingly, withdraws the interim stay on the operation of the aforesaid Notification imposed by this Hon'ble Court by its Order dated 21st August 2017.

26. I crave leave of this Hon'ble Court to produce and rely upon the documents/records/orders adverted herein above at the time of hearing.

27. I state that whatever has been stated hereinabove is based on the records available with my good Office and partly based on the legal submissions which I believe to be true and correct.

Solemnly affirmed at Panaji, Goa)

This 19th day of September, 2017)

DEPONENT

Identified by me:-

VERIFICATION

I Parag Nagarcenkar, son of Madhusudhan Nagarcenkar resident of Ponda- Goa, major age, Indian National, the authorized representative of Respondent No. 2 above do on solemn affirmation state that what is stated by me in paragraphs 1 – 19, 20 (part), 21, 22 (part) and 23 - 26 are true to my own knowledge and belief and what is stated in paragraphs 20 (part) and 21 (part) are in the nature of legal submissions or inferences which I believe to be true.

Verified at Panaji – Goa on this

19th day of September, 2016

DEPONENT

Solemnly affirmed before me by the Deponent who is identified to me by personally known to me

ADV MANISH D. SALKAR
NOTARY
OFFICE No. 1,3rd FLOOR,
NAVELKAR TRADE CENTRE.
M. G. ROAD, PANAJI GOA.
Reg no 317/2017
dt 19/09/2017